

Atty. Docket No. 8528.412/ 224/042 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 04 2005

Appl. Serial No.: 08/851,965

Confirmation: 6500

Inventors: Andrew A. Young, et al.

Filed: May 6, 1997

Group Art Unit: 1639

Title: Method for Preventing Gastritis Using Amylin or
Amylin Agonists

Examiner: B.M. Celsa


APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants respectfully request reconsideration of the Patent Term Adjustment indicated in the Notice of Allowance, mailed May 4, 2005, for the above-identified application. Applicants herein apply for an adjustment of the patent term due to examination delay. The required fee under 37 C.F.R. §1.18(e) and a statement of facts in support of this application are filed herewith. The issue fee for the subject application is filed herewith. Accordingly, this application is timely filed.

The Commissioner is hereby authorized to charge payment of any additional fees or credit overpayment of any fees associated with this communication to Applicant's Deposit Account No. 010535

Respectfully submitted,
AMYLIN PHARMACEUTICALS, INC.

Dated: 04 August 2005


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Certificate of Transmission Under 37 C.F.R. 1.8

I hereby certify the this document if being transmitted by facsimile to the Commissioner for Patents, Alexandria, Virginia to telephone number (571) 273-8300 on this 4th day of August 2005.

August 4, 2005
Date of Transmission
Amanda J. Halverson

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**STATEMENT OF FACTS UNDER 37 C.F.R. §1.705(b)(2) IN SUPPORT OF
APPLICATION FOR PATENT TERM ADJUSTMENT**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This statement of facts is being submitted in support of the application for Patent Term Adjustment (PTA) submitted herewith.

The PTA shown on the Notice of Allowance mailed May 4, 2005 is 0 days. It is respectfully suggested that the correct PTA is 259 days. Applicants' calculations for the correct PTA follow.

PTA calculation for this application begins with the date the Continuing Prosecution Application (CPA) was filed, March 12, 2001. From this date, there are two instances under 37 C.F.R. §§1.702 and 1.703 that would lead to an addition of PTA days and three instances under 37 C.F.R. §1.704 that would lead to a reduction in the PTA days.

1. Following the filing of the CPA, Applicants filed an Information Disclosure Statement (IDS) on May 18, 2001. Under 37 C.F.R. §1.704(a), Applicants' delay in filing the IDS would reduce PTA by 67 days.

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2. On September 25, 2001, Applicants filed a response to the non-final Office Action mailed June 19, 2001. Under 37 C.F.R. §1.704(b)(3)(ii), Applicants' delay in responding to the Office Action would reduce PTA by 7 days.

3. On December 12, 2001, a final Office Action was mailed and, on August 12, 2002, a Notice of Abandonment was mailed. On October 31, 2002, Applicants filed a Petition for Revival under 37 C.F.R. §1.136(b) and a response to the final Office Action. The Petition for Revival was later granted. Under 37 C.F.R. §1.704(b)(3)(ii), this delay in responding to the final Office Action (March 12, 2002 to October 31, 2002) would reduce PTA by 233 days.

4. On October 31, 2002, the Petition for Revival under 37 C.F.R. §1.136(b) was filed. This Petition was granted on May 9, 2003. A Notice of Allowance was mailed March 10, 2004. Under 37 C.F.R. §§1.702(a)(2) and 1.704(c)(3)(ii), the Office's delay in granting the Petition and issuing the Notice of Allowance (February 28, 2003 to March 10, 2004) would add 376 days to PTA.

5. On June 7, 2004, the Issue Fee was paid and, to Applicants' knowledge, all outstanding requirements were satisfied. No notice was ever received from the Office that would indicate that any requirements remained to be satisfied. On April 14, 2005, Applicants filed a Petition for Withdrawal from Issue and a Request for Continued Examination (RCE). According to 37 C.F.R. §1.702(a)(4), the Office is to issue a patent not later than four months after the date on which the issue fee was paid and all outstanding requirements were satisfied. Thus, under 37 C.F.R. §§1.702(a)(4), 1.703(a)(6), and 1.703(b)(1), the Office's delay in issuing the patent (October 7, 2004 to April 14, 2005) would add 189 days to PTA.

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Actions taken by both the Office and Applicants have occurred in a timely manner since the filing of the RCE. A chronological chart of this history is attached hereto as Exhibit A.

According to 37 C.F.R. §1.703(g), a patent shall not be adjusted beyond the expiration date specified in a disclaimer if the term of the patent has been disclaimed beyond the specified date. Applicants note that on May 17, 1999 (prior to the filing of the CPA), a request to withdraw a Notice of Abandonment and a conditional petition for revival was filed. This Petition for Revival under 37 C.F.R. §1.136(b) and accompanying Terminal Disclaimer was filed only in the event that the request to withdraw the Notice of Abandonment was denied. On February 15, 2000, the request to withdraw the holding of abandonment was granted. The petition for revival was dismissed as moot and the Terminal Disclaimer was not entered. Accordingly, the patent issuing on this application is not subject to a terminal disclaimer.

Respectfully submitted,
AMYLIN PHARMACEUTICALS, INC.

Dated: August 4, 2005

Karen R. Zachow
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Registration No. 46,332

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EXHIBIT A

Date	Description	Dates for PTA calculation	Days added or subtracted for PTA
12 Mar 2001	Continuing Prosecution Application filed.	12 Mar 2001 to 18 May 2001 (\$1.704(a))	67 days charged to Applicant and subtracted from PTA.
18 May 2001	Information Disclosure Statement filed.		
19 Jun 2001	Non-final Office Action mailed.		
25 Sep 2001	Response to non-final Office action filed.	19 Sep 2001 to 25 Sep 2001 (\$1.704(b)(3)(ii))	7 days charged to Applicant and subtracted from PTA.
12 Dec 2001	Final Office Action mailed.	12 Mar 2002 to 31 Oct 2002 (\$1.704(b)(3)(ii))	233 days charged to Applicant and subtracted from PTA.
12 Aug 2002	Notice of Abandonment mailed.		
31 Oct 2002	Petition for Revival under 37 C.F.R. 1.136(b) and response to final Office Action filed.		
09 May 2003	Petition under 37 C.F.R. 1.136(b) granted.	28 Feb 2003 to 10 Mar 2004 (\$§1.702(a)(2) and 1.704(c)(3)(ii))	376 days charged to PTO and added to PTA.
10 Mar 2004	Notice of Allowance mailed.		
07 Jun 2004	Issue Fee paid.	07 Oct 2004 to 14 Apr 2005 (\$§1.702(a)(4), 1.703(a)(6), and 1.703(b)(1))	189 days charged to PTO and added to PTA.
14 Apr 2005	Petition for Withdrawal from Issue and Request for Continued Examination filed.		
04 May 2005	Notice of Allowance mailed.		
04 Aug 2005	Issue Fee paid and Petition filed.		

Total PTA = (376 + 189) – (67 + 6 + 233) = 259 days

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